

July 6, 2010

**VIA FEDERAL EXPRESS**

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**Re: Chemical Recovery Systems, Inc. Site Remedial Design/Remedial Action Consent Decree  
*United States of America v. AK Steel Corporation et al.*, Case No. 1:10-cv-00996  
Institutional Controls Work Plan**

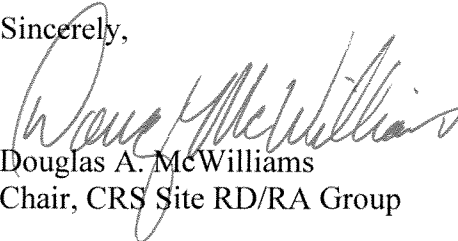
To U.S. EPA and the State of Ohio:

This letter serves as Settling Performing Defendants' submittal of the Institutional Controls Work Plan for review and approval as required by paragraph 32 in the RD/RA Consent Decree for the Chemical Recovery Systems, Inc. ("CRS") Site lodged May 4, 2010 in the above-captioned case ("Consent Decree"). This notice is being submitted to the designated recipients in Consent Decree Paragraph 118 for U.S. EPA and the State of Ohio.

Richard C. Karl, Director, Superfund Division  
Michelle Kerr  
Thomas C. Nash  
Lawrence J. Antonelli  
July 6, 2010  
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If you have any questions or concerns, please do not hesitate to contact me at (216) 479-8332.

Sincerely,

A handwritten signature in dark ink, appearing to read "Doug McWilliams", is written over the typed name and title.

Douglas A. McWilliams  
Chair, CRS Site RD/RA Group

DAM/acp  
Enclosures

cc: Patrick Steerman, Steerman Environmental Management & Consulting, LLC  
Larry R. Mencin, Sherwin Williams  
James A. Peeples, Brown and Caldwell  
CRS Site RD/RA Group Settling Performing Defendants

**CHEMICAL RECOVERY SYSTEMS, INC. (“CRS”) SITE**  
**INSTITUTIONAL CONTROL WORK PLAN**

Prepared by Squire, Sanders & Dempsey L.L.P.  
For the CRS Site RD/RA Performing Parties  
Pursuant to RD/RA Consent Decree  
Paragraph 32  
July 2010

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## **1. Introduction**

Section IX of the CRS Site Consent Decree, *U.S. v. AK Steel, et al.*, Case No. CV-00996, lodged with the U.S. District Court for the Northern District of Ohio on May 4, 2010, contains obligations for the development and implementation of institutional controls for the Chemical Recovery Systems, Inc. (“CRS”) Site in Elyria, Ohio (the “Site”). Paragraph 32 of the Consent Decree requires that an Institutional Controls (“IC”) Work Plan be submitted to U.S. EPA for approval within sixty (60) days after lodging of the Consent Decree. This IC Work Plan is timely submitted on behalf of the Settling Performing Defendants to satisfy that obligation.

## **2. Site Map and Features**

The CRS Site consists of seven (7) parcels of real property that constitute approximately 2.5 acres located at 142 Locust Street, in Elyria, Ohio as set forth on the attached Site Map (see Exhibit A). As confirmed by the Title Insurance Commitment Effective February 26, 2010 (see Exhibit C) and as indicated on the Map, the Site is currently owned in fee simple by the Settling Owner Defendant, The Obitts Family Trust dated March 2, 1999 with Ms. Dorothy Kathleen Obitts, Trustee. The Site Map also identifies the boundaries of the Site and the assessor parcel numbers. A number of features are included on the Map such as fences, a storm sewer line, remaining structures and foundations, vegetation, river bank and flow, and information regarding offsite parcels and structures.

The Site Map also identifies the zoning designation as “Light Industrial” for all parcels comprising the Site as confirmed with the Elyria Building Department on June 24, 2010. The use of the entire Site is restricted to commercial/industrial purposes by the zoning designation and by the Settling Owner Defendant’s commitment in Consent Decree paragraph 30(b) to “refrain from using the Site in any manner that would interfere with or adversely affect the

implementation, integrity, or protectiveness of the remedial measures to be performed pursuant to this Consent Decree.” One of those remedial measures is the obligation to execute and record an environmental covenant that in pertinent part restricts the Site to commercial/industrial use. U.S. EPA has provided an Environmental Covenant to the Settling Owner Defendant for signature and recording, which is attached as Exhibit B. Therefore, Consent Decree paragraph 30(b) serves as an enforceable commitment by the current owner to restrict future land use at the Site to commercial/industrial even if the zoning were to change. When Ms. Obitts executes and records the Environmental Covenant, that commitment will run with the land to bind any future owners of the Site.

The Site Map is also required to identify easements and encumbrances. The updated Title Commitment dated February 26, 2010 provided by U.S. EPA (attached as Exhibit C) includes the recorded Rights of Way and Easements on the Site. The Rights of Way for parcels 1, 2, 3, 4, and 7 in the Title Commitment are reflected by the railroad spur shown on the Map. The Easements listed in the Title Commitment are driveway easements. The first easement is a common driveway easement that serves permanent parcel numbers 062609600024 and 062609600023 (Parcels 5 and 6 on the Title Commitment). This driveway easement passes between the “Rodney Hunt Still Building” and the “Warehouse and Office” designations on the Site Map. The second easement is a driveway easement recorded after the common driveway easement that serves Parcel 6 alone. The Title Commitment does not reference a recorded easement for the storm sewer line that runs across the property from Locust Street toward the River. The storm sewer is an active discharge point for collected storm water and it is depicted as a feature on the Site Map.

### **3. Institutional Control Implementation**

U.S. EPA's Selected Remedy in the Record of Decision included a requirement for "Institutional Controls to ensure the CRS Site remains protective of public health and the environment." *See* Chemical Recovery Systems Record of Decision (October 2007) ("ROD") at 141 (Table 9). The Selected Remedy Institutional Controls in the ROD are:

- For ground water: prohibit potable or non-potable use of groundwater until restored to Safe Drinking Water Standards for all chemicals of concern (COCs);
- For land use: restrictive covenant or some other appropriate control for the land use to be zoned as industrial/commercial use only; and
- For the soil underneath the cover system: no digging or placing structures on the cover system without notification and approval from EPA

ROD at p.13. These ICs are to be implemented through an Environmental Covenant developed by U.S. EPA under Ohio Revised Code Sections 5301.80 to 5301.92 for execution by the Settling Owner Defendant and to be recorded by the County Recorder with the deed for the property.

The attached Environmental Covenant (Exhibit B) imposes "activity and use limitations on the Site" that implement each of the ICs identified in the ROD. Section 4.A of the Covenant implements the IC for the soil underneath the cover system as well as a general prohibition against any use that would interfere with the integrity or protectiveness of the remedial action. Section 4.B limits Site land use to "Commercial/Industrial Activities." Section 4.C implements

the groundwater use restrictions. The Covenant also provides Site access for U.S. EPA and Settling Performing Defendants until the Site is fully remediated.

Settling Performing Defendants understand that U.S. EPA sent the Environmental Covenant in the form attached hereto as Exhibit B to the Settling Owner Defendant for Signature. The Environmental Covenant must then be returned to U.S. EPA for signature by Richard C. Karl, Director of Superfund Division Region 5. The fully executed Environmental Covenant will then be recorded by the Settling Owner Defendant with the deed at the Lorain County Recorder Office to complete IC implementation.

The ROD also anticipates further investigation into potential offsite impacts from the Site. In the event that further investigation indicates that additional property beyond the current Site boundary, and not owned by the Settling Owner Defendant, has been adversely affected by contamination migrating from the Site and poses a threat to human health or the environment, Settling Performing Defendants will evaluate in consultation with U.S. EPA the need for Institutional Controls for these additional parcels. Within forty-five (45) days of the identification of offsite property where access and/or land/water use restrictions are needed to implement the Consent Decree, Settling Performing Defendants shall submit a revision to this IC Work Plan to address the additional offsite parcel. Such revision shall include: (1) a draft Environmental Covenant in substantially the form attached hereto as Exhibit B that is enforceable under the laws of the State of Ohio for the affected parcel; (2) a current title insurance commitment, or some other evidence of title acceptable to U.S. EPA, which shows title to the additional parcel to be free and clear of all prior liens and encumbrances except as approved by U.S. EPA or when, despite best efforts, Settling Performing Defendants are unable to obtain release or subordination of such prior liens or encumbrances; and (3) information



regarding the current zoning and land use. Settling Performing Defendants, after consultation with U.S. EPA, shall use best efforts to secure from the owner of the offsite parcel an agreement to provide access for the purpose of conducting any activity related to the Consent Decree, an agreement to refrain from using the parcel in any manner that would adversely affect the remedy set forth in the Consent Decree, and an Environmental Covenant or similar agreement running with the land to implement any approved ICs necessary to protect human health and the environment, in accordance with Paragraph 31 of the Consent Decree. If despite best efforts, Settling Performing Defendants cannot secure the owner's cooperation or the cooperation of those holding liens or encumbrances, Settling Performing Defendants shall promptly notify U.S. EPA in writing, list the steps taken to date, and request such assistance as may be necessary to impose institutional controls on the additional parcel as set forth in Consent Decree Paragraph 34.

#### **4. Institutional Control Monitoring**

The Owner executing the Environmental Covenant has primary responsibility for monitoring the ICs on the Site to ensure that they remain in place. The Environmental Covenant requires that each instrument conveying any interest in the Site or any portion thereof contain a notice of the activity and use limitations in the Covenant. The Owner and Transferee must notify U.S. EPA within ten (10) days of the conveyance of any such interest and the Transferee submits to the obligations of the Environmental Covenant. U.S. EPA holds the authority to enforce the Environmental Covenant by its terms and pursuant to the Ohio Revised Code sections referenced therein.

As part of the Environmental Covenant, the Owner (including hereafter any Transferee) shall submit an annual written certification that the annual activity and use limitations implementing the ICs remain in place and are being complied with in accordance with Ohio Administrative

Code § 3745-50-42. *See* Environmental Covenant at 13. The certification, which shall be made after an appropriate Site inspection, shall include the following:

- (1) The zoning designation for the Site and all parcels comprising the Site remain Light Industrial or some other designation consistent with the commercial/industrial use restriction.
- (2) Confirmation that the Environmental Covenant remains in place and has not been compromised by any subsequent filing with the Lorain County Recorder's office.
- (3) Confirmation that the onsite markers required by the Environmental Covenant remain in place and continue to provide the required notice.

The Certification is designed to ensure that the institutional controls are in place for the short and the long term and that they remain in place until terminated in accordance with the Consent Decree. The Certification shall be submitted to U.S. EPA and to the State as required by the Environmental Covenant and in accordance with the notice procedures in the Consent Decree.

To the extent that Settling Performing Defendants have obligations under Consent Decree Paragraph 31 for offsite parcels affected by the Site, the Settling Performing Defendants shall have primary responsibility for the IC monitoring obligations set forth above for that offsite affected parcel. The owner of the offsite parcel affected by the Site may, via an enforceable Environmental Covenant or similar agreement, accept primary responsibility for monitoring the institutional controls for its parcel.

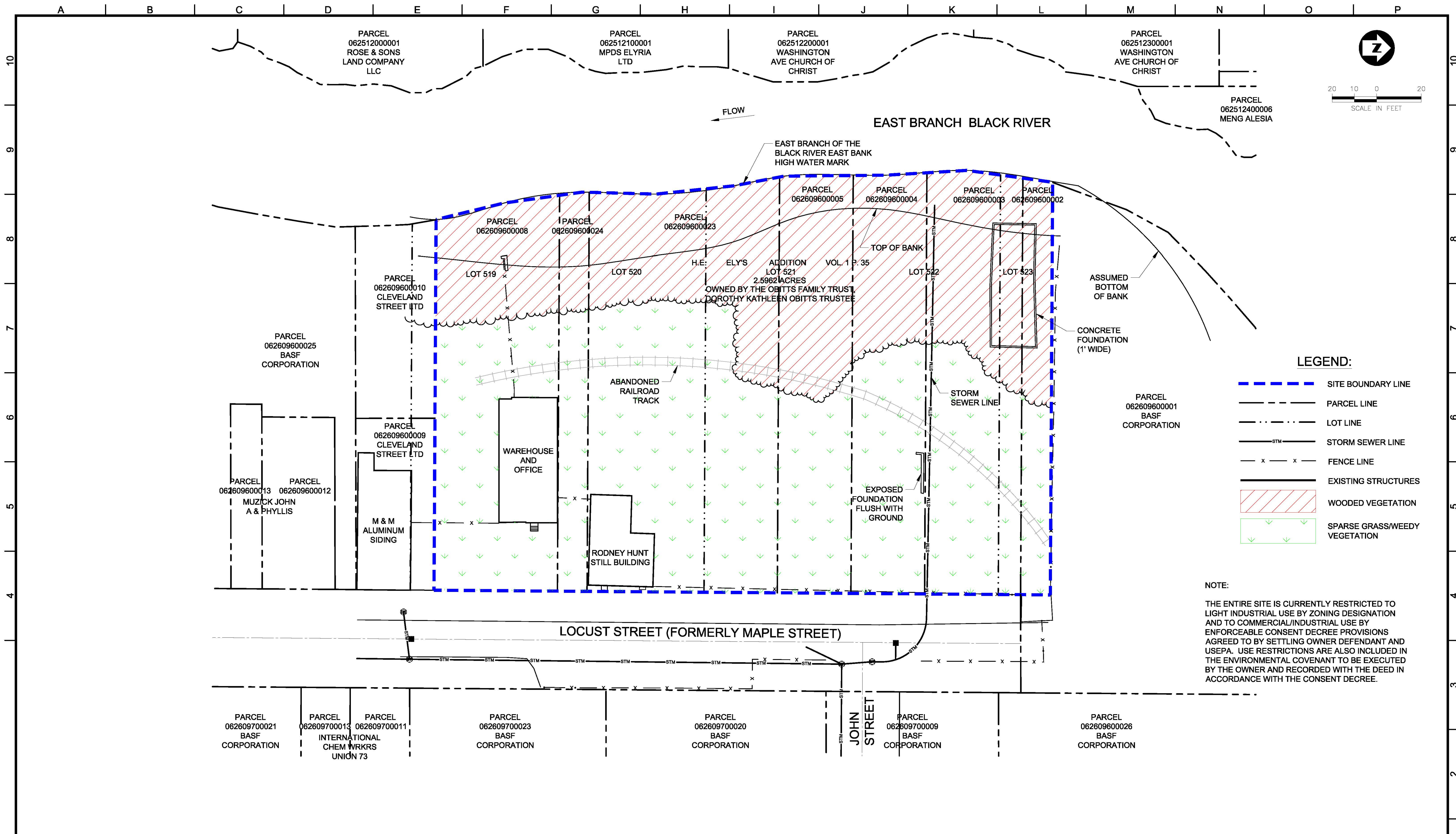
Settling Performing Defendants also accept secondary responsibility to conduct the annual certification, including the investigation to support the certification, upon notice by U.S. EPA that the person or entity with primary responsibility cannot be made to conduct the IC monitoring through the enforcement mechanisms available to U.S. EPA. Settling Performing Defendants shall have a reasonable period of time after notice to provide this IC certification.

The IC Work Plan may be modified by mutual agreement of the Settling Performing Defendants and the U.S. EPA. The IC Work Plan shall terminate upon Completion of the Work under Paragraph 58 of the Consent Decree or at such earlier time if approved by U.S. EPA.

# **EXHIBIT A**

## **Site Map**





**Brown and Caldwell**  
COLUMBUS, OHIO

SUBMITTED: \_\_\_\_\_ DATE: \_\_\_\_\_  
PROJECT MANAGER

APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_  
BROWN AND CALDWELL

LINE IS 2 INCHES  
AT FULL SIZE  
(IF NOT 2" - SCALE ACCORDINGLY)

DESIGNED: JP  
DRAWN: NJE  
CHECKED: \_\_\_\_\_  
CHECKED: \_\_\_\_\_  
APPROVED: \_\_\_\_\_

EXTERNAL REFERENCE FILES  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

REVISIONS					
ZONE	REV.	DESCRIPTION	BY	DATE	APP.

PROJECT TITLE HERE  
**CHEMICAL RECOVERY SYSTEMS SITE  
ELYRIA, OHIO**

SITE PLAN FOR IC

FILENAME  
SitePlan.dwg

BC PROJECT NUMBER  
XXXXXX

CLIENT PROJECT NUMBER  
\_\_\_\_\_

DRAWING NUMBER  
\_\_\_\_\_

SHEET NUMBER  
1 OF 1



## **EXHIBIT B**

### **Environmental Covenant**

## ENVIRONMENTAL COVENANT

This Environmental Covenant is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by Owner Dorothy Kathleen Obitts (as further identified below) and Holder Dorothy Kathleen Obitts (as further identified below) pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 301.92 for the purpose of subjecting the Site (described below) to the activity and use limitations and to the rights of access described below.

Whereas, the United States Environmental Protection Agency ("U.S. EPA"), pursuant to Section 104(b) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9604(b), conducted an investigation of the Chemical Recovery Systems, Inc. Site ("Site") in September 1981 and detected the presence of hazardous substances in soil, groundwater, surface water, and sediment samples collected from the Site; and

Whereas, U.S. EPA, pursuant to Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), entered into a Consent Decree with Chemical Recovery Systems, Inc. ("CRS") on July 12, 1983 to implement the following actions at the Site: excavate all visibly contaminated soil identified during a joint inspection conducted by U.S. EPA and CRS; excavate the perimeter of a building in the northwest corner of the Site; dispose of all removed soil at an U.S. EPA-approved disposal facility; backfill the excavated areas with clean clay containing fill; and grade the Site towards the East Branch of the Black River on the western border of the Site. U.S. EPA concluded that CRS complied with the Consent Decree by September 15, 1983; and

Whereas, on March 2, 2001, U.S. EPA issued General Notices of Potential Liability and information requests under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e)(2), to 129 parties identified by U.S. EPA as being potentially responsible for arranging treatment of hazardous materials at the Site; and

Whereas, on May 29, 2002, U.S. EPA signed an Administrative Order on Consent with 24 potentially responsible parties to perform a Remedial Investigation/Feasibility Study (RI/FS), and whereas, on September 30, 2003, U.S. EPA signed an Administrative Order on Consent with 83 *de minimis* contributors; and

Whereas, in the RI commenced in July 2003, U.S. EPA found that the following contaminants had been released into the soil at the Site: tetrachloroethene, trichloroethene, 1,2-dichloroethene, 1,2-dichloroethane, vinyl chloride, benzene, toluene, ethylbenzene, xylenes, chloroform, benzo(a)anthracene, benzo(b)fluoranthene, benzo(a)pyrene, dibenzo(a,h)anthracene, indeno(1,2,3-c,d)pyrene, antimony, arsenic, iron, lead, aroclor-1221, aroclor-1242, aroclor-1248, aroclor-1254, and aroclor-1260. In the same RI, U.S. EPA found that the following

contaminants had been released into the groundwater at the Site: 1,1,1-trichloroethane, 1,2-dichloroethane, 1,1-dichloroethane, 1,1-dichloroethene, benzene, acetone, chloroethane, chloroform, cis-1,2-dichloroethene, ethylbenzene, methylene chloride, tetrachloroethene, styrene, toluene, trichloroethene, vinyl chloride, xylenes, fluorene, isophorone, naphthalene, antimony, arsenic, cadmium, iron, lead, manganese, aroclor-1016, aroclor-1221, aroclor-1232, aroclor-1242, aroclor-1248, aroclor-1254, and aroclor-1260. In the same RI, U.S. EPA found that benzo(a)pyrene and arsenic had been released into the sediment at the Site and that arsenic had been released into the surface water at the Site; and

Whereas, the Site is a Superfund Alternative Site, and U.S. EPA may, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, propose the inclusion of the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B; and

Whereas, on October 30, 2007, U.S. EPA issued a Record of Decision (ROD) to address the actual or threatened release of hazardous substances at the Site. The selected remedy includes air monitoring during construction, excavation and off-site disposal of contaminated soil from the northwest corner of the Site, soil sampling verification, the placement of two feet of clean soil cover over the entire Site, and the implementation of institutional controls; and

Whereas, the ROD finds that the institutional controls will: (1) prohibit the compromise of the cover system implemented at the Site; (2) prevent the use of groundwater for potable and non-potable purposes until Safe Drinking Water Standards are met for the contaminants in the groundwater; (3) restrict the use of the Site for anything but Commercial/Industrial Activities (as hereafter defined); and (4) restrict the building of structures on the Site without U.S. EPA notification and approval. The purpose of institutional controls is to protect the performance of the remedy, limit the future use of the property where remedial action is taken, and prevent the exposure of humans or the environment to contaminants; and

Whereas, the parties hereto have agreed: (1) to grant a permanent right of access over the Site to the Access Parties (as hereafter defined) for purposes of implementing, facilitating, and monitoring the remedial action; and (2) to impose on the Site activity and use limitations as covenants that will run with the land for the purpose of protecting human health and the environment; and

Now therefore, Owner and U.S. EPA agree to the following:

1. Definitions. All capitalized terms shall have the definitions identified herein. A capitalized term in this Environmental Covenant which is not defined herein shall have the same meaning as set forth in ORC §§ 5301.80 to 5301.92, CERCLA, or the Record of Decision for the Site.

A. Access Parties. This term means U.S. EPA, Ohio Environmental Protection Agency ("Ohio EPA"), and any parties that agree to perform a remedial action at the Site pursuant to an order or decree executed by U.S. EPA, their successors and assigns, and their respective officers, employees, agents, contractors, authorized representatives, and other invitees (collectively, "Access Parties"). The parties that may agree to perform a remedial action at the Site pursuant to an order or decree executed by U.S. EPA, and that



thereby become Access Parties, include, but are not limited to, those parties named in Exhibit D of the Environmental Covenant. The parties named in Exhibit D have been identified as potentially responsible parties by U.S. EPA. Any parties that are so identified in the future and that thereafter agree to perform a remedial action at the Site pursuant to an order or decree executed by U.S. EPA are also Access Parties.

B. Agencies. This term means U.S. EPA and/or Ohio EPA and their respective officers, employees, agents, contractors, authorized representatives, and other invitees. For the purposes of this Environmental Covenant, U.S. EPA is the agency responsible for overseeing the remedial action and activity and use limitations at the Site and, therefore, is the Agency as defined by ORC § 5301.80(B) and the applicable agency as that term is used in ORC §§ 5301.80 to 5301.92.

C. Best Efforts. This term includes the payment of reasonable sums of money to obtain access, an agreement to restrict land or water use, a Proprietary Control, and/or an agreement to release or subordinate a prior lien or encumbrance.

D. Commercial/Industrial Activities. This term includes, but is not limited to: (i) wholesale and retail sales and service activities including, but not limited to, retail stores, and automotive fuel, sales, and service facilities; (ii) governmental, administrative, and general office activities; (iii) manufacturing, processing, packaging, handling, and warehousing activities, including, but not limited to, production, storage, and sales of durable goods and other non-food chain products; (iv) research and development, including all ancillary and supporting activities incident thereto; (v) other office and warehousing activities including, but not limited to, production, processing, storage, and sales of chemicals, chemical intermediates, blend-stocks, feed-stocks, and by-products; and (vi) activities which are consistent with or similar to the above listed activities; together with related parking areas and driveways, but excluding Residential and Other Prohibited Activities.

E. Holder. Dorothy Kathleen Obitts, who resides at 1130 Gulf Road, Elyria, Ohio 44035, is the Holder of the Site.

F. Owner. Dorothy Kathleen Obitts, who resides at 1130 Gulf Road, Elyria, Ohio 44035, is the Owner of the Site.

G. Proprietary Control. This term means easements or covenants running with the land that (i) limit land, water, or resource use and/or provide access rights; and (ii) are created as a result of the granting of an interest in real property from one party (grantor) to another party (grantee) by an instrument that is recorded in the appropriate land records office.

H. Residential and Other Prohibited Activities. This term includes, but is not limited to: (i) single and multi-family dwellings and rental units; (ii) transient residential facilities, including hotels and motels; (iii) day care centers and preschools; (iv) public and private elementary and secondary schools; (v) hospitals, assisted living facilities, and other extended care medical facilities and medical and dental offices; (vi) food

preparation and food service facilities, including food stores, restaurants, banquet facilities, and other food preparation or sales facilities; and (vii) indoor or outdoor entertainment and recreational facilities.

I. Transferee. This term means any future owner of any interest in the Site or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees. This term does not include the Agencies.

2. Environmental Covenant. This instrument is an Environmental Covenant executed and delivered pursuant to ORC §§ 5301.80 to 5301.92.

3. Site. The eight (8) parcels of real property that consist of approximately 2.5 acres located at 142 Locust Street, City of Elyria, Lorain County, Ohio (the “Site”) and which are subject to the environmental covenants set forth herein are described in Exhibit A attached hereto and incorporated by reference herein. The Site is shaded on the copy of the Lorain County, Ohio Auditor’s tax map (the “Map”) attached hereto as Exhibit B. The entire Site is subject to the activity and use limitations described in Paragraph 4 below.

4. Activity and Use Limitations on the Site.

A. Owner covenants for herself and her heirs, successors, and assigns not to permit the Site to be used in any manner that would interfere with or adversely affect the integrity or protectiveness of the remedial action which has been implemented or which will be implemented in accordance with the Record of Decision unless the written consent of U.S. EPA to such use is first obtained. Owner’s agreement to restrict the use of the Site shall include, but not be limited to, not permitting any drilling, digging, building, or the installation, construction, removal, or use of any buildings, wells, pipes, roads, ditches, or any other structures on the Site unless the written consent of U.S. EPA to such use or activity is first obtained.

B. Owner covenants for herself and her heirs, successors, and assigns that the Site shall be used solely for Commercial/Industrial Activities and only after written consent of U.S. EPA to such use is first obtained. Owner acknowledges and agrees that the Site will be remediated only for Commercial/Industrial Activities. The Site shall not be used for Residential and Other Prohibited Activities.

C. Owner covenants for herself and her heirs, successors, and assigns that no potable or non-potable use of Site groundwater will occur, either on or off the Site, unless the written consent of U.S. EPA to such use is first obtained. Owner’s agreement to restrict the use of the Site shall include not permitting the installation of groundwater wells for potable and non-potable uses at the Site. Owner shall use her Best Efforts to implement controls, including deed restrictions, easements, or other assurances, that prohibit the installation of groundwater drinking water supplies within the area of potential groundwater contamination at the Site and in areas downgradient of the Site with contaminated groundwater.

D. The restrictions regarding future development of the Site may be modified pursuant to the written consent of U.S. EPA based on a demonstration by the Owner that the proposed use or activity will not interfere with the remedial action or pose a threat to human health and the environment. The restrictions regarding the installation of groundwater drinking water wells at the Site may be modified pursuant to the written consent of U.S. EPA based on a demonstration by the Owner that groundwater remediation standards have been met and maintained.

5. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all heirs, successors, and assigns in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or early termination as set forth herein.

6. Notice to Agencies. Neither Owner nor any Holder or Transferee shall transfer any interest in the Site, or make proposed changes in the use of the Site, or make applications for building permits or proposals for any work at the Site, without first providing notice to the Agencies and obtaining any approvals or consents thereto.

7. Access to the Site. Pursuant to the Consent for Access to Property Agreement, Owner hereby grants to the Access Parties an unrestricted right of access to the Site to take any action authorized by law; any action related to the implementation, oversight, or enforcement of this Environmental Covenant or the Record of Decision; or any action otherwise necessary to protect human health and the environment. Such rights of access include, but are not limited to, conducting sampling at the Site; performing other actions to investigate contamination on the Site that U.S. EPA may determine to be necessary; and taking any response action to address any release or threatened release of a hazardous substance, pollutant, or contaminant which U.S. EPA determines may pose an imminent and substantial endangerment to the public health or the environment. The rights of access granted under this Paragraph 7 shall be irrevocable while this Environmental Covenant remains in full force and effect. The rights of access do not limit any statutory authority of the Agencies, nor do they provide any rights against the Agencies.

8. Administrative Record.

A. On October 30, 2007, U.S. EPA issued a Record of Decision (ROD) as described in the seventh "Whereas" clause at the beginning of this Environmental Covenant. The ROD sets forth U.S. EPA's determination of the appropriate remedial action to be implemented at the Site to address Site contamination. The ROD was based upon the administrative record for the Chemical Recovery Systems, Inc. Site. Copies of the administrative record for the Site are maintained at the following locations: U.S. EPA Region 5, Superfund Records Center (7<sup>th</sup> Floor), 77 W. Jackson, Chicago, Illinois 60604; and Elyria Public Library, 320 Washington Avenue, Elyria, Ohio 44035.

B. The ROD describes institutional controls as one of the major components of the appropriate remedial action to be implemented at the Site. Owner has executed and delivered this Environmental Covenant to implement the institutional controls with respect to the Site that are identified in the ROD.

9. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Site or any portion thereof shall contain a notice of the activity and use limitations and grants of access set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. For instruments conveying any interest in the Site or any portion thereof, the notice shall be substantially in the form set forth in Exhibit E. Owner, Holder, and Transferee shall notify the Agencies within ten (10) days after each conveyance of an interest in any portion of the Site. The notice shall include the name, address, and telephone number of the Transferee; a copy of the deed or other documentation evidencing the conveyance; a legal description of the property being transferred; a survey map of the property being transferred; and the closing date of the transfer of ownership of the property.

10. Amendment or Early Termination. This Environmental Covenant may be modified, amended, or terminated while Owner owns the property only by a writing signed by Owner and U.S. EPA pursuant to ORC § 5301.90. A modification, amendment, or termination of this Environmental Covenant shall comply with the formalities required for the execution of a deed in Ohio and be recorded in the same manner as a deed in the Office of the Recorder of Lorain County, Ohio. Upon transfer of all or any portion of the Site, Owner waives any rights that it might otherwise have under ORC § 5301.90 to withhold its consent to any amendments, modifications, or termination of this Environmental Covenant, to the extent that it has transferred its interest in that portion of the Site affected by said modification, amendment, or termination. The rights of Owner's heirs, successors, and assigns in interest as to a modification, amendment, or termination of this Environmental Covenant are governed by the provisions of ORC § 5301.90.

11. Representations and Warranties of Owner. Owner represents and warrants that:

- A.) Owner is the sole owner of the Site;
- B.) Owner holds fee simple title to the Site which is free, clear and unencumbered except for those interests or encumbrances listed in Exhibit C, which are fully incorporated by reference herein;
- C.) Owner has identified all other parties that hold any interest or encumbrance in the Site and notified such parties of the Owner's intention to enter into this Environmental Covenant;
- D.) Owner has the power and authority to make and enter into this Environmental Covenant as Owner and Holder, to grant the rights and privileges herein provided, and to carry out all obligations of Owner and Holder hereunder;
- E.) This Environmental Covenant has been executed and delivered pursuant to the Record of Decision for the Site; and
- F.) This Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document, or

instrument to which Owner is a party or by which Owner may be bound or affected.

12. Right to Enforce Agreement Against Owner; Equitable Remedies. Compliance with this Environmental Covenant may be enforced pursuant to ORC § 5301.91 or other applicable law. In the event that Owner or any other person violates the terms of this Environmental Covenant, including the activity and use limitations on the Site set forth in Paragraph 4 and the rights of access granted under Paragraph 7, then U.S. EPA, Ohio EPA, or any party that agreed to perform a remedial action at the Site pursuant to an order or decree executed by U.S. EPA and that is adversely affected by such violation (for example, any party that is prevented from conducting its remedial obligations at the Site pursuant to the order or decree executed by U.S. EPA) shall have the right to immediately seek judicial relief, including, but not limited to, an appropriate equitable remedy. Any court having jurisdiction is hereby granted the right to issue a temporary restraining order and/or preliminary injunction upon application by U.S. EPA, Ohio EPA, or by such adversely affected party without notice or posting bond. Owner and each Transferee by accepting a deed to the Site or to any part thereof waives all due process or other constitutional right to notice and hearing before the grant of a temporary restraining order and/or preliminary injunction pursuant to this Paragraph 12. Failure to timely enforce compliance with this Environmental Covenant by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance.

13. Compliance Reporting. Owner and any Transferee shall submit to the Agencies on an annual basis a written certification which complies with the requirements of Ohio Administrative Code 3745-50-42 (B)-(D) that the activity and use limitations remain in place and are being complied with. At the same time, the Owner shall report compliance with this Environmental Covenant pursuant to ORC § 5301.82(B)(1).

13. Future Cooperation; Execution of Supplemental Instruments. Owner agrees to cooperate fully with the Agencies and any parties that agree to perform a remedial action at the Site pursuant to an order or decree executed by U.S. EPA and to assist them in implementing the rights granted them under this Environmental Covenant. In furtherance thereof, Owner agrees to execute and deliver such additional documents as may be requested by the Agencies to supplement or confirm the rights granted hereunder. Owner also agrees to cooperate with the Agencies to obtain compliance with the terms of this Environmental Covenant if there is a violation of this Environmental Covenant.

14. Cumulative Remedies; No U.S. EPA Waiver of Authority. All of the rights and remedies set forth in this Environmental Covenant or otherwise available at law or in equity are cumulative and may be exercised without regard to the adequacy of, or exclusion of, any other right, remedy, or option available hereunder or at law. The failure to exercise any right granted hereunder, to take action to remedy any violation by Owner of the terms hereof, or to exercise any remedy provided herein shall not be deemed to be a waiver of any such right or remedy, and no forbearance on the part of U.S. EPA and no extension of the time for performance of any obligations of Owner hereunder shall operate to release or in any manner affect U.S. EPA's rights hereunder. No action or decision by U.S. EPA related to environmental remediation at the Site shall independently give rise to judicial review under this Environmental Covenant.

Nothing in this Environmental Covenant shall restrict the U.S. EPA from exercising any authority it may have under applicable law. U.S. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable.

15. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

16. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant and pursuant to ORC § 5301.88, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Site, with the Lorain County Recorder's Office.

17. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Site with the Lorain County Recorder's Office.

18. Distribution of Environmental Covenant. Within sixty (60) days after the date of the final required signature, Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA, Lorain County, City of Elyria, each party holding a recorded interest in the Site, and any parties that agree to perform a remedial action at the Site pursuant to an order or decree executed by U.S. EPA.

19. Notices. Owner shall notify U.S. EPA within thirty (30) days of becoming aware of any violation of this Environmental Covenant and shall remedy the breach within sixty (60) days of becoming aware of the event, or such time frame as may be agreed upon by the Owner or Transferee and U.S. EPA. All other notices, requests, demands, or other communications required or permitted under this Environmental Covenant shall be given in the manner and with the effect as set forth herein.

20. Governing Law. This Environmental Covenant shall be construed according to and governed by the laws of the State of Ohio and the United States of America.

21. Captions. All paragraph captions are for convenience of reference only and shall not affect the construction of any provision of this Environmental Covenant.

22. Time of the Essence. Time is of the essence of each and every performance obligation of Owner under this Environmental Covenant.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, Owner and U.S. EPA have executed and delivered this Environmental Covenant as of the date first above written.

OWNER

\_\_\_\_\_  
Dorothy Kathleen Obitts, a/k/a  
Dorothy K. Obitts

STATE OF OHIO                    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by Dorothy Kathleen Obitts, a/k/a Dorothy K. Obitts.

\_\_\_\_\_  
Notary Public

UNITED STATES OF AMERICA  
On behalf of the Administrator of the  
United States Environmental Protection Agency

By: \_\_\_\_\_  
Richard C. Karl, Director,  
Superfund Division, Region 5

STATE OF ILLINOIS                )  
  ) SS.  
COUNTY OF COOK                )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by Richard C. Karl, Director, Superfund Division, Region 5 of the United States Environmental Protection Agency, on behalf of the United States of America.

\_\_\_\_\_  
Notary Public

## **EXHIBIT A**

### **Legal Description of the Site**

#### **PARCEL NO. 1**

Situated in the City of Elyria, County of Lorain and State of Ohio, and known as being part of Sublot No. 523 in Block No. 96 of H. Ely's Addition to Elyria, of Original Elyria Township Lots No. 96 and other lots, as shown by the recorded plat in Volume 1 of Maps, Page 35 of Lorain County Records and bounded and described as follows:

Being a strip of land 20 feet in width North of and adjoining premises described in Parcel No. 2 below. Commencing at a point in the West line of Maple Street projected 35 feet Northerly of the South line of the said Lot No. 523; thence Westerly parallel to the South line of said Lot No. 523 and 35 feet distant Northerly therefrom to the Easterly bank of Black River at high water mark; thence Southerly following the course and meanderings of said River at high water mark to a point 15 feet Northerly of the South line of said Lot No. 523; thence Easterly parallel to the said South line of said Lot No. 523 and 15 feet distance Northerly therefrom to the Westerly line of Maple Street, thence Northerly on the Westerly line of said Maple Street projected North 20 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways. Excepting therefrom the above described premises any part thereof resulting through change in the course of Black River occasioned by other than natural causes other than accretion and any encroachments thereon.

Parcel ID 06-26-096-000-002

#### **PARCEL NO. 2A**

Situated in the City of Elyria, County of Lorain and State of Ohio, and known as being the Northerly one-half of Sublot No. 522 in Block No. 96 in H. Ely's Addition to Elyria of Original Elyria Township Lot No. 96 and other lots, as shown by the recorded plat in Volume 1 of Maps, Page 35 of Lorain County Records and having a frontage of 49.50 feet on the Westerly line of Maple Street, extending back of equal width, the East bank of the East branch of Black River, as appears by said plat, be the same more or less, but subject to all legal highways.

Parcel ID 06-26-096-000-003

#### **PARCEL NO. 2B**

Situated in the City of Elyria, County of Lorain and State of Ohio, and known as being the Southerly 15 feet between parallel lines of Sublot No. 523 in Block No. 96 of H. Ely's Addition to Elyria of Original Elyria Township Lot No. 96, and other lots as shown by the recorded plat in Volume 1, Page 35 of Lorain County Records, and having a frontage of 15 feet on the Westerly side of Maple Street, extending back of equal width to the East bank of the East branch of Black River, as appears by said plat, be the same more or less, but subject to all legal highways.



PARCEL NO. 3

Situated in the City of Elyria, County of Lorain and State of Ohio, and known as being the Southerly one-half of Sublot No. 522 in Block No. 96 in H. Ely's Addition to Elyria of Original Elyria Township Lot No. 96 and other lots, as shown by the recorded plat in Volume 1 of Maps, Page 35 of Lorain County Records, and having a frontage of 49.50 feet on the Westerly side of Maple Street, extending back of equal width to the East bank of the East branch of Black River, as appears by said plat, be the same more or less, but subject to all legal highways.

Parcel ID 06-26-096-000-004

PARCEL NO. 4

Situated in the City of Elyria, County of Lorain and State of Ohio, and known as being the Northerly one-half of Sublot No. 521 in Block No. 96 of H. Ely's Addition to Elyria of Original Elyria Township Lot No. 96 and other lots, as shown by the recorded plat in Volume 1, Page 35 of Lorain County Records, and having a frontage of 49.50 feet on the Westerly side of Maple Street, extending back of equal width to the East bank of the East Branch of the Black River, as appears by said plat, be the same more or less, but subject to all legal highways.

Parcel ID 06-26-096-000-005

PARCEL NO. 5

Situated in the City of Elyria, County of Lorain and State of Ohio, and known as being all of Sublot No. 520 and the Southerly 49.50 feet of Sublot No. 521, in Block No. 96, between the branches of Black River in H.E. Ely's Addition to the Village of Elyria, as shown by the recorded plat in Volume 1 of Maps, Page 35 of Lorain County Records and having a frontage of 148.50 feet along the Westerly line of North Maple Street and extending Westerly between parallel lines to Black River at high water line. Sublot No. 520 being 99.0 feet in width as measured along North Maple Street and that portion of Sublot No. 521 being 49.50 feet frontage along the Westerly line of said Street, be the same more or less, but subject to all legal highways. Excepting therefrom the following parcel of land:

Situated in the City of Elyria, County of Lorain and State of Ohio, and known as being the Southerly 20.00 feet of Sublot No. 520 in Block No. 96, between the branches of Black River, in H.E. Ely's Addition to the Village of Elyria, as shown by the recorded plat in Volume 1 of Maps, Page 35 of Lorain County Records, and bounded and described as follows:

Beginning at a point on the Westerly line of Locust Street, formerly Maple Street, at the Southeasterly corner of said Sublot No. 520; thence Northerly along the Westerly line of Locust Street, a distance of 20.00 feet; thence Westerly in a line parallel to and distant 20.00 feet by rectangular measurement from the Southerly line of said Sublot No. 520, to a point in the High Water Mark of the East Branch of Black River; thence downstream along said High Water Mark to the Southwesterly corner of said Sublot No. 520 and being the Northerly line of land conveyed to Franklin H. and Irene L. Payne by deed dated August 6, 1958, and recorded in Deed Volume

727, Page 29 of Lorain County Records, the Southeasterly corner of said Sublot No. 520 and a point on the Westerly line of said Sublot No. 520, and the place of beginning, be the same more or less, but subject to all legal highways.

Parcel ID 06-26-096-000-023

PARCEL NO. 6

Situated in the City of Elyria, County of Lorain and State of Ohio, and known as being the Southerly 20.0 feet of Sublot No. 520 in Block 96, between the branches of Black River, in H.E. Ely's Addition to the Village of Elyria as recorded in Volume 1, Page 35 of Lorain County Record of Plats, and bounded and described as follows:

Beginning at a point on the Westerly line of Locust Street, formerly Maple Street, at the Southeasterly corner of said Sublot No. 520; thence Northerly along the Westerly line of Locust Street, a distance of 20.00 feet; thence Westerly in a line parallel with and distant 20.00 feet by rectangular measurement from the Southerly line of said Sublot No. 520, to a point in the High Water Mark of the East Branch of Black River; thence downstream along said High Water Mark to the Southwesterly corner of said Sublot No. 520; thence Easterly along the Southerly line of said Sublot No. 520 and being the Northerly line of land conveyed to Franklin H. and Irene L. Payne by deed dated August 6, 1958 and recorded in Deed Volume 727, Page 29 of Lorain County Records, to the Southeasterly corner of said Sublot No. 520, and the place of beginning, be the same more or less, but subject to all legal highways.

Parcel ID 06-26-096-000-024

PARCEL NO. 7

Situated in the City of Elyria, County of Lorain and State of Ohio, and being a part of Sublot No. 519, Block 96 in the H.E. Ely Addition to the Village, now City of Elyria, between the branches of Black River, as recorded in Volume 1, Page 35 of Lorain County Record of Plats, bounded and described as follows:

Beginning at an iron pin at the Northeasterly corner of said Sublot No. 519, Block 96, and on the Westerly line of Locust Street (formerly Maple Street); thence along the Northerly line of said Sublot No. 519, Block 96, Westerly a distance of 222.77 feet to an iron pin; thence continuing along the Northerly line of said subplot Westerly to high water line of the East Branch of Black River; thence Southerly down stream and measurement, Northerly from the Southerly line of said Sublot No. 519; along said high water line to a point distant 16.0 feet by rectangular thence Easterly and along a line distant 16.0 feet by rectangular measurement Northerly from the Southerly line of said Sublot No. 519 to the Easterly line of said Sublot No. 519 and Westerly line Locust Street (formerly Maple Street); thence Northerly and along the Easterly line of Sublot No. 519; and along the Westerly line of Locust Street (formerly Maple Street) a distance of about 83.0 feet to the place of beginning, be the same more or less, but subject to all legal highways and waterways. Excepting from the above described premises any part thereof resulting through

change in the course of Black River occasioned by other than natural causes or by natural causes other than accretion.

Parcel ID 06-26-096-000-008

Property Address: 142 Locust Street, Elyria, Ohio

Tax ID No.: 06-26-096-000-002; -003; -004; -005; -023; -024; -008

## Map of the Site



## **EXHIBIT C**

### **Encumbrances on the Site**

1. Taxes for the year 2009 amounting to \$100.86 are a lien and unpaid as to Parcel No. 1.  
Taxes for the year 2009 amounting to \$252.16 are a lien and unpaid as to Parcel No. 2.  
Taxes for the year 2009 amounting to \$247.96 are a lien and unpaid as to Parcel No. 3.  
Taxes for the year 2009 amounting to \$247.96 are a lien and unpaid as to Parcel No. 4.  
Taxes for the year 2009 amounting to \$1,114.30 are a lien and unpaid as to Parcel No. 5.  
Taxes for the year 2009 amounting to \$115.88 are a lien and unpaid as to Parcel No. 6.  
Taxes for the year 2009 amounting to \$628.60 are a lien and unpaid as to Parcel No. 7.  
Taxes for the year 2010 are a lien, but not yet due or payable.  
Subject to Special Taxes and Assessments, if any.  
Permanent Parcel No. 06-26-096-000-002  
Permanent Parcel No. 06-26-096-000-003  
Permanent Parcel No. 06-26-096-000-004  
Permanent Parcel No. 06-26-096-000-005  
Permanent Parcel No. 06-26-096-000-023  
Permanent Parcel No. 06-26-096-000-024  
Permanent Parcel No. 06-26-096-000-008
2. Right of Way recorded in Deed Volume 95, Page 270 of Lorain County Records, as to Parcel No. 2.
3. Right of Way recorded in Deed Volume 116, Page 123 of Lorain County Records, as to Parcel No. 3.
4. Right of Way recorded in Deed Volume 122, Page 96 of Lorain County Records, as to Parcel No. 4.
5. Right of Way recorded in Deed Volume 160, Page 487 of Lorain County Records, as to Parcel No. 1.
6. Common Driveway Easement recorded in Deed Volume 375, Page 92 of Lorain County Records, as to Parcel Nos. 5 and 6.
7. Right of Way recorded in Deed Volume 379, Page 38 of Lorain County Records, as to Parcel No. 7.
8. Driveway Easement recorded in Deed Volume 964, Page 436 of Lorain County Records, as to Parcel No. 6.

## **EXHIBIT D**

### **Parties that may agree to perform a remedial action at the Site pursuant to an order or decree executed by U.S. EPA**

1. CNA Holdings LLC
2. Akzo Nobel Paints LLC
3. The Goodyear Tire & Rubber Company
4. Chevron Environmental Management Company
5. PPG Industries, Inc.
6. The Sherwin Williams Company
7. United States Steel Corporation
8. Avery Dennison Corporation
9. Ashland Inc.
10. Mattel, Inc.
11. Goodrich Corporation
12. Jamestown Paint & Varnish
13. Alcatel-Lucent USA Inc.
14. Continental Tire North America, Inc.
15. Valspar Corporation

## EXHIBIT E

### Notice upon Conveyance of Site or any Portion thereof

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT DATED \_\_\_\_\_, 2010, WHICH WAS RECORDED IN THE OFFICIAL RECORDS OF THE LORAIN COUNTY RECORDER ON \_\_\_\_\_, 2010, IN [DOCUMENT \_\_\_\_\_ OR BOOK \_\_\_\_\_, PAGE \_\_\_\_\_]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS AND ACCESS RIGHTS:

Activity and Use Limitations on the Site. Pursuant to Paragraph 4 of the Environmental Covenant, the entire Site is subject to the following activity and use limitations:

- (a) The Site shall not be used in any manner that would interfere with or adversely affect the integrity or protectiveness of the remedial action which has been implemented or which will be implemented in accordance with the Record of Decision for the Site unless the written consent of the United States Environmental Protection Agency ("U.S. EPA") to such use is first obtained.
- (b) The Site shall be used solely for Commercial/Industrial Activities, as that term is defined in the Environmental Covenant, and only after written consent of U.S. EPA to such use is first obtained. The Site shall not be used for Residential and Other Prohibited Activities, as that term is defined in the Environmental Covenant.
- (c) No potable or non-potable use of Site groundwater will occur, either on or off the Site, unless the written consent of U.S. EPA to such use is first obtained. No groundwater wells will be installed, for either potable or non-potable use, with the exception of those wells approved by U.S. EPA.
- (d) The restrictions regarding future development of the Site may be modified pursuant to the written consent of U.S. EPA based on a demonstration that the proposed use or activity will not interfere with the remedial action or pose a threat to human health and the environment. The restrictions regarding the installation of groundwater drinking water wells at the Site may be modified pursuant to the written consent of U.S. EPA based on a demonstration that the groundwater remediation standards have been met and maintained.

Notice to Agencies. No transferee in interest may make proposed changes in the use of the Site, or make applications for building permits or proposals for any work at the Site, without first providing notice to U.S. EPA and Ohio Environmental Protection Agency ("Ohio EPA") and obtaining any approvals or consents thereto.

Access to the Site. Pursuant to Paragraph 7 of the Environmental Covenant, U.S. EPA, Ohio EPA, and any parties that agree to perform a remedial action at the Site pursuant to an order or decree executed by U.S. EPA, their successors and assigns, and their respective officers, employees, agents, contractors, authorized representatives, and other invitees (collectively,

“Access Parties”) shall have an unrestricted right of access to the Site to take any action authorized by law; any action related to the implementation, oversight, or enforcement of the Environmental Covenant or the Record of Decision for the Site; or any action otherwise necessary to protect human health and the environment. Such rights of access include, but are not limited to, conducting sampling at the Site; performing other actions to investigate contamination on the Site that U.S. EPA may determine to be necessary; and taking any response action to address any release or threatened release of a hazardous substance, pollutant, or contaminant which U.S. EPA determines may pose an imminent and substantial endangerment to the public health or the environment.



## **EXHIBIT C**

### **Title Insurance Commitment**

ALTA Commitment Form

COMMITMENT FOR TITLE INSURANCE

Issued by



Stewart Title Guaranty Company, a Texas Corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate six months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

This commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

IN WITNESS WHEREOF, Stewart Title Guaranty Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.

  
Chairman of the Board



  
President

Countersigned:

  
Authorized Countersignature

TrueTitle Agency, Inc.  
Company Name

Elyria, Ohio  
City, State

TrueTitle Agency Inc.  
5061 N. Abbe Rd #3  
Elyria, OH 44035

**TITLE INSURANCE COMMITMENT**

BY

***Stewart Title Guaranty Company***

**SCHEDULE A**

1. Effective Date: **February 26, 2010, 7:59 am**
2. Policy or Policies To Be Issued: Amount of Insurance

**ISSUED FOR INFORMATION PURPOSES ONLY – NO TITLE INSURANCE TO BE ISSUED**

a. A.L.T.A. Owner's

Proposed Insured: **Dorothy Kathleen Obitts Trustee**

b. A.L.T.A. Loan

Proposed Insured:

3. The estate or interest in the land described or referred to in this Commitment and covered herein is:  
**Fee Simple**
4. Title to the **Fee Simple** estate or interest in said land is at the effective date hereof vested in:  
**Dorothy Kathleen Obitts Trustee, The Obitts Family Trust dated March 2, 1999**
5. The land referred to in this Commitment is described as follows:

**PARCEL NO. 1:** Situated in the City of Elyria, County of Lorain and State of Ohio and known as being part of SubLot No. 523 in Block No. 96 in H. Ely's Addition to Elyria, of Original Elyria Township Lot No. 96 and other lots, as shown by the recorded plat in Volume 1 of Maps, Page 35 of Lorain County Records and bounded and described as follows: Being a strip of land 20 feet in width North of and adjoining premises described in Parcel No. 4 above. Commencing at a point in the West line of Maple Street projected 35 feet Northerly of the South line of the said Lot No. 523; thence Westerly parallel to the South line of said Lot No. 523 and 35 feet distant Northerly therefrom to the Easterly bank of Black River at high water mark; thence Southerly following the course and meanderings of said River at high water mark to a point 15 feet Northerly of the South line of said Lot No. 523; thence Easterly parallel to the said South line of said Lot No. 523 and 15 feet distant Northerly therefrom to the Westerly line of Maple Street; thence Northerly on the Westerly line of said Maple Street projected North 20 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways. Excepting therefrom the above described premises any part thereof resulting through change in the course of Black River occasioned by other than natural causes other than accretion.

**PARCEL NO. 2A:** Situated in the City of Elyria, County of Lorain and State of Ohio and known as being the Northerly one-half of SubLot No. 522 in Block No. 96 in H. Ely's Addition to Elyria of Original Elyria Township Lot No. 96 and other lots, as shown by the recorded plat in Volume 1 of

Maps, Page 35 of Lorain County Records, and having a frontage of 49.50 feet on the Westerly line of Maple Street, extending back of equal width to the East bank of the East branch of Black River, as appears by said plat, be the same more or less, but subject to all legal highways.

**PARCEL 2B:** Situated in the City of Elyria, County of Lorain and State of Ohio and known as being the Southerly 15 feet between parallel lines of SubLot No. 523 in Block No. 96 in H. Ely's Addition to Elyria of Original Elyria Township Lot No. 96, and other lots, as shown by the recorded plat in Volume 1, Page 35 of Lorain County Records, and having a frontage of 15 feet on the Westerly side of Maple Street, extending back of equal width to the East bank of the East branch of Black River, as appears by said plat, be the same more or less, but subject to all legal highways.

**PARCEL NO. 3:** Situated in the City of Elyria, County of Lorain and State of Ohio and known as being the Southerly one-half of SubLot No. 522 in Block No. 96 in H. Ely's Addition to Elyria of Original Elyria Township Lot No. 96 and other lots, as shown by the recorded plat in Volume 1 of Maps, Page 35 of Lorain County Records and having a frontage of 49.50 feet on the Westerly side of Maple Street, extending back of equal width to the East bank of the East branch of Black River, as appears by said plat, be the same more or less, but subject to all legal highways.

**PARCEL NO. 4:** Situated in the City of Elyria, County of Lorain and State of Ohio and known as being the Northerly one-half of SubLot No. 521 in Block No. 96 of H. Ely's Addition to Elyria of Original Elyria Township Lot No. 96 and other lots, as shown by the recorded plat in Volume 1, Page 35 of Lorain County Records, and having a frontage of 49.50 feet on the Westerly side of Maple Street, extending back of equal width to the East bank of the East branch of Black River, as appears by said plat, be the same more or less, but subject to all legal highways.

**PARCEL NO. 5:** Situated in the City of Elyria, County of Lorain and State of Ohio and known as being all of SubLot No. 520 and the Southerly 49.50 feet of SubLot No. 521, in Block No. 96, between the branches of Black River in H.E. Ely's Addition, as shown by the recorded plat in Volume 1 of Maps, Page 35 of Lorain County Records and having a frontage of 148.50 feet along the Westerly line of North Maple Street and extending Westerly between parallel lines to Black River at high water line. SubLot No. 520 being 90.0 feet in width as measured along North Maple Street and that portion of SubLot No. 521 being 49.50 feet frontage along the Westerly line of said Street, be the same more or less, but subject to all legal highways. Excepting therefrom the following parcel of land: Situated in the City of Elyria, County of Lorain and State of Ohio and known as being the Southerly 20.0 feet of SubLot No. 520 in Block 96, between the branches of Black River, in H.E. Ely's Addition to the Village of Elyria as recorded in Volume 1, Page 35 of Lorain County Record of Plats, and bounded and described as follows: Beginning at a point on the Westerly line of Locust Street, formerly Maple Street, at the Southeasterly corner of said SubLot No. 520; thence Northerly along the Westerly line of Locust Street, a distance of 20.0 feet; thence Westerly in a line parallel with and distant 20.00 feet by rectangular measurement from the Southerly line of said SubLot No. 520, to a point in the high water mark of the East branch of Black River; thence downstream along said high water mark to the Southwesterly corner of said SubLot No. 520; thence Easterly along the Southerly line of said SubLot No. 520 and being the Northerly line of land conveyed to Franklin H. and Irene L. Payne by Deed dated August 6, 1958 and recorded in Deed Volume 727, Page 29 of Lorain County Records, to the Southeasterly corner of said SubLot No. 520 and a point on the Westerly line of said SubLot No. 520, and the place of beginning, be the same more or less, but subject to all legal highways. Excepting from the above described premises any part thereof resulting through change in the course of Black River occasioned by other than natural causes or by natural causes other than accretion.

**PARCEL NO. 6:** Situated in the City of Elyria, County of Lorain and State of Ohio and known as

being the Southerly 20.0 feet of SubLot No. 520 in Block 96, between the branches of Black River, in H.E. Ely's Addition to the Village of Elyria as recorded in Volume 1, Page 35 of Lorain County Record of Plats, and bounded and described as follows: Beginning at a point on the Westerly line of Locust Street, formerly Maple Street, at the Southeasterly corner of said SubLot No. 520; thence Northerly along the Westerly line of Locust Street, a distance of 20.0 feet; thence Westerly in a line parallel with and distant 20.00 feet by rectangular measurement from the Southerly line of said SubLot No. 520, to a point in the high water mark of the East branch of Black River; thence downstream along said high water mark to the Southwesterly corner of said SubLot No. 520; thence Easterly along the Southerly line of said SubLot No. 520 and being the Northerly line of land conveyed to Franklin H. and Irene L. Payne by Deed dated August 6, 1958 and recorded in Deed Volume 727, Page 29 of Lorain County Records, to the Southeasterly corner of said SubLot No. 520 and a point on the Westerly line of said SubLot No. 520, and the place of beginning, be the same more or less, but subject to all legal highways. Excepting from the above described premises any part thereof resulting through change in the course of Black River occasioned by other than natural causes or by natural causes other than accretion.

PARCEL NO. 7: Situated in the City of Elyria, County of Lorain and State of Ohio and known as being a part of SubLot No. 519, Block 96 in the H.E. Ely's Addition to the Village, now City of Elyria, between the branches of Black River, as recorded in Volume 1, Page 35 of Lorain County Record of Plats, bounded and described as follows: Beginning at an iron pin at the Northeasterly corner of said SubLot No. 519, Block 96, and on the Westerly line of Locust Street (formerly Maple Street); thence along the Northerly line of said SubLot No. 519, Block 96, Westerly a distance of 222.77 feet to an iron pin; thence continuing along the Northerly line of said SubLot, Westerly to high water line of the East branch of Black River; thence Southerly downstream and along said high water line to a point distant 16.0 feet by rectangular measurement, Northerly from the Southerly line of said SubLot No. 519; thence Easterly and along a line distant 16.0 feet by rectangular measurement Northerly from the Southerly line of said SubLot No. 519 to the Easterly line of said SubLot No. 519 and Westerly line of Locust Street (formerly Maple Street) thence Northerly and along the Easterly line of SubLot No. 519; and along the Westerly line of Locust Street (formerly Maple Street) a distance of about 83.0 feet to the place of beginning, be the same more or less, but subject to all legal highways and waterways. Excepting from the above described premises any part thereof resulting through change in the course of the Black River occasioned by other than natural causes or by natural causes other than accretion.

**TITLE INSURANCE COMMITMENT**

BY

***Stewart Title Guaranty Company***

**SCHEDULE B - SECTION I**

The following are the requirements to be complied with:

1. Show that restrictions or restrictive covenants have not been violated.
2. Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest, mortgage or lien to be issued.
3. Furnish proof of payment of all bills for labor and material furnished or to be furnished in connection with improvements erected or to be erected.
4. Pay all general and special taxes now due and payable including the following: None unless listed below.
5. Record instrument conveying or encumbering the estate or interest to be insured, briefly described:
  - a. All requirements to be determined.

## TITLE INSURANCE COMMITMENT

BY

*Stewart Title Guaranty Company*

## SCHEDULE B - SECTION II

Schedule B of the policy or policies to be insured will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Taxes for the current year
3. Any discrepancies, conflicts or shortages in area or boundary lines, or any encroachments or any overlapping of improvements or other boundary or location disputes (can be eliminated or amended in mortgagee's policy upon proper evidence being furnished).
4. Rights or claims of parties in possession, and not of record in the public records; liens for labor, services or materials or claims to same which are not of record in said records.
5. Any roadway easement, similar or dissimilar, on, under, over or across said property, or any part thereof and not of record in said records.
6. Taxes for the year 2009 amounting to \$100.86 are a lien and unpaid as to Parcel No. 1. Taxes for the year 2009 amounting to \$252.16 are a lien and unpaid as to Parcel No. 2. Taxes for the year 2009 amounting to \$247.96 are a lien and unpaid as to Parcel No. 3. Taxes for the year 2009 amounting to \$247.96 are a lien and unpaid as to Parcel No. 4. Taxes for the year 2009 amounting to \$1,114.30 are a lien and unpaid as to Parcel No. 5. Taxes for the year 2009 amounting to \$115.88 are a lien and unpaid as to Parcel No. 6. Taxes for the year 2009 amounting to \$628.60 are a lien and unpaid as to Parcel No. 7. Taxes for the year 2010 are a lien, but not yet due or payable.  
Subject to Special Taxes and Assessments, if any.  
Caption listed to Dorothy Kathleen Obitts, Trustee  
Permanent Parcel No. 06-26-096-000-002  
Permanent Parcel No. 06-26-096-000-003  
Permanent Parcel No. 06-26-096-000-004  
Permanent Parcel No. 06-26-096-000-005  
Permanent Parcel No. 06-26-096-000-023  
Permanent Parcel No. 06-26-096-000-024  
Permanent Parcel No. 06-26-096-000-008
7. Right of Way recorded in Deed Volume 95, Page 270 of Lorain County Records, as to Parcel No. 2.
8. Right of Way recorded in Deed Volume 116, Page 123 of Lorain County Records, as to Parcel No. 3.
9. Right of Way recorded in Deed Volume 122, Page 96 of Lorain County Records, as to Parcel No. 4.
10. Right of Way recorded in Deed Volume 160, Page 487 of Lorain County Records, as to Parcel No. 1.

11. **Common Driveway Easement recorded in Deed Volume 375, Page 92 of Lorain County Records, as to Parcel Nos. 5 and 6.**
12. **Right of Way recorded in Deed Volume 379, Page 38 of Lorain County Records, as to Parcel No. 7.**
13. **Driveway Easement recorded in Deed Volume 964, Page 436 of Lorain County Records, as to Parcel No. 6.**





Agency, Inc.

5061 N. Abbe Road • Suite 3  
Elyria, Ohio 44035

Phone: (440) 934-3444

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TrueTitle Agency, Inc., Stewart Title Guaranty Company, Stewart Title Insurance Company, Stewart Title Insurance Company of Oregon, National Land Title Insurance Company, Arkansas Title Insurance Company, Charter Land Title Insurance Company, Guardian Title Insurance Company

#### Privacy Policy Notice

#### PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of TrueTitle Agency, Inc., Stewart Title Guaranty Company, Stewart Title Insurance Company, Stewart Title Insurance Company of Oregon, National Land Title Insurance Company, Arkansas Title Insurance Company, Charter Land Title Insurance Company, Guardian Title Insurance Company.

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as on applications or other forms.
- Information about your transactions we secure from our files, or from our affiliates or others.
- Information we receive from a consumer reporting agency.
- Information that we receive from others involved in your transaction, such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies that perform marketing services on our behalf or with whom we have joint marketing agreements:

- Financial service providers such as companies engaged in banking, consumer finance, securities and insurance.
- Non-financial companies such as envelope stuffers and other fulfillment service providers.

**WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.**

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

## CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. *The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at < <http://www.alta.org/>>.*



All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252.

**EXHIBIT D**

**GIS Coordinates**